

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CHARLES ROBERT MILES,  
Petitioner,  
v.  
WILLIAM MUNIZ, Warden,  
Respondent.

Case No. 14-cv-02807-HSG (PR)

**ORDER GRANTING EXTENSION OF  
TIME TO FILE NOTICE OF APPEAL  
AND APPLICATION FOR  
CERTIFICATE OF APPEALABILITY**

Re: Dkt. No. 27

This is a closed federal habeas corpus action filed by a *pro se* state prisoner pursuant to 28 U.S.C. § 2254. The petition was denied and judgment was entered in favor of respondent on December 11, 2015. Petitioner now moves for an extension of time to file a notice of appeal and application for certificate of appealability in the Ninth Circuit.

Petitioner's motion for an extension of time is GRANTED. An appeal of right may be taken only by filing a valid notice of appeal in the district court within the time allowed by Fed. R. App. P. ("FRAP") 4. *See* FRAP 3(a)(1). The notice of appeal must be filed within 30 days after judgment is entered. *See* FRAP 4(a)(1). Relief from the deadline for filing a notice of appeal may be obtained by a motion in the district court under FRAP 4(a)(5) (motion for an extension of time) or 4(a)(6) (motion to reopen time to file appeal). FRAP 4(a)(5) allows a motion for an extension of time if the party requests it within thirty days of the expiration of the time to file the notice and shows an excusable neglect or good cause. Petitioner's motion was signed on December 28, 2015, and therefore is timely filed within the meaning of FRAP 4(a)(5). The Court also finds that petitioner has shown good cause.


"No extension under this rule 4(a)(5) may exceed 30 days after the expiration of the prescribed time [viz., 30 days from the date of entry of judgment] or 14 days after the date when

1 the order granting the motion is entered, whichever is later.” FRAP 4(a)(5)(C). Here, that is 30  
2 days from January 10, 2016. **Accordingly, petitioner must file his notice of appeal and**  
3 **application for certificate of appealability on or before February 9, 2016.**

4 This order terminates Docket No. 27.

5 **IT IS SO ORDERED.**

6 Dated: 1/12/2016

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9 HAYWOOD S. GILLIAM, JR.  
10 United States District Judge  
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